

Remarks

This Amendment is filed in response to the Notice of Allowance mailed September 15, 2009. In view of the restriction dated May 1, 2009, it is hereby requested, pursuant to MPEP 821.04, that withdrawn claims 1-10 (Group I), as amended to depend from or otherwise require all the limitations of the allowable product claims 12-18 and 31-32 be rejoined into the allowable matter. MPEP 821.04 allows for the rejoinder of claims directed to a nonelected invention, which have been withdrawn, when such claims depend from or otherwise require all the limitations of an allowable claim. Applicants respectfully submit that the above stated claims 1-3 and 5-10 of Group I, are included as new claims 33-41 to depend from or otherwise require all the limitations of the allowable claims and are in condition for rejoinder.

To summarize, in the Office Action Restriction mailed May 1, 2009, the Examiner restricted the following invention into two groups; namely Group I (Claims 1-10, method claims) and Group II (Claims 12-28, article claims). In response to the Office Action Restriction dated May 1, 2009, Applicants elected to prosecute the claims of Group II (Claims 12-28), and the non-elected claims of Group I were withdrawn from consideration, and cancelled, at that time without prejudice to Applicants' to file divisional application thereon. MPEP 714(c)(5) provides that canceled claims may be reinstated only adding the claim as "new" claim with a new claim number.

Subsequently, product claims 12-18 and 31-32 were allowed by the Examiner on September 15, 2010. In view of the allowed claims and the restriction of the method claims 1-10, it is hereby requested that the Examiner rejoin the previously non-elected claims

of Group I, as currently presented as claims 33-41 as set forth herein, pursuant to MPEP 821.04, which states:

“The propriety of a restriction requirement should be reconsidered when all the claims directed to the elected invention are in condition for allowance, and the nonelected invention(s) should be considered for rejoinder. Rejoinder involves withdrawal of a restriction requirement between an allowable elected invention and a nonelected invention and examination of the formerly nonelected invention on the merits.”

As clearly stated above, if product claims were previously elected and one or more claims are subsequently allowed by the Examiner, withdrawn process claims in the same application can be rejoined. Therefore, in light of the foregoing, Applicants request that the Examiner withdraw the restriction of May 1, 2009, between the allowed elected claims of Group II with the withdrawn and subsequently withdrawn and cancelled, non-elected process claims of Group I.

In light of the above amendments and request for rejoinder, Applicants respectfully request the Examiner withdraw the restriction requirement of May 1, 2009, and rejoin amended claims 1-10, as set forth herein. Applicants respectfully submit the requested rejoined claims and the claims previously stated as being allowable are in condition for allowance.

Conclusion

In light of the amendments and remarks presented above, Applicants submit that the present application is in condition to receive a Supplemental Notice of Allowability allowing rejoined claims 33-41, and such action is respectfully requested. If, however, any issues remain unresolved, the Examiner is invited to telephone Applicants' counsel at the number provided below. If any fees for the accompanying response are required, the Commissioner is hereby authorized to charge them to Deposit Account No. 502190.

Respectfully submitted,

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